IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 33076 of 2005(K)

OPMV.540/2005 of MOTOR ACCIDENT CLAIMS TRIBUNAL, VADAKARA

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PETITIONER:

ANIL KUMAR T.P., S/O.KUNHIRAMAN,
THANIYLLA PARAMBATH HOUSE,
THALIYIL P.O., KUTTIADY VIA, VADAKARA TALUK.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:

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1. ABDULLA @ KUNHABDULLA,
S/O.KUNHAMMED HAJI, VENGODAN VEETTIL HOUSE,
PYKLANGADI, KAVILUMPARA P.O., VADAKARA TALUK.

2. ASSIA, W/O.ABDULLA @ KUNHABDULLA,
RESIDING DO.

3. STATE OF KERALA, REP. BY
CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

R1 & R2 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R3 BY ADV. SRI. SHYSON P. MANGUZHA, GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 33076 OF 2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE OP(MV) 540/05 FILED BY THE 1ST AND 2ND RESPONDENTS AGAINST THE PETITIONER.

EXT.P2 : TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENTS DT.25.05.05.

EXT.P3 : TRUE COPY OF THE ORDER IN IA 2497/05 IN OP(MV) 540/05 DT.23.09.05.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 33076 OF 2005

Dated this the 1st day of August, 2007

JUDGMENT

Heard both sides. The impugned order is Ext.P3 under which the Motor Accident Claims Tribunal allowed the petitioner's application for lifting the attachment before judgment of a jeep belonging to the petitioner on condition that he furnished security to the tune of Rs.4.5 lakhs. According to the petitioner, the value of the jeep attached by the Tribunal is Rs.75,000/- and the learned Tribunal was not justified in insisting a security of more than Rs.75,000/-.

The learned counsel for the respondents would submit that the value of jeep was at least Rs.3.5 lakhs and the Tribunal cannot be said to be at fault in insisting on security for Rs.4.5 lakhs since the claim was for a sum of Rs.9 lakhs.

It is seen that the order of attachment was passed by the MACT in early 2005. The jeep is kept idle in the compound of the MACT and in all probability by this time the jeep become deteriorated due to exposure to sun and rain. Whatever that be, in modification of the impugned order, I direct that the jeep in question be released to the petitioner upon his furnishing security to the tune of Rs.3 lakhs. There will be a further

direction to the MACT to try and dispose of OP(MV) No. 540 of 2005 at the earliest and at any rate within four months of receiving copy of this judgment.

PIUS C. KURIAKOSE, JUDGE

btt